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November 1, 2023

Via Electronic Filing

The Honorable Paul G. Gardephe, U.S.D.J.
U.S. District Court, Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Villa v. Little Scholars Childcare LLC et al*
Case No.: 1:23-cv-05772-PGG-BCM

Dear Honorable Judge Gardephe:

This law firm represents Plaintiff Ashley Villa (the “Plaintiff”) in the above-referenced matter.

Out of an abundance of caution, the following letter respectfully serves to advise the Court that the parties have agreed to dispose of the instant action as against Defendants Little Scholars Childcare LLC and Kidz Town of Dutchess Corporation¹ through the filing of an offer of judgment, pursuant to Federal Rule of Civil Procedure (“Fed.R.Civ.P.”) 68.

In light of the filing of the offer of judgment, and notice of acceptance, pursuant to Fed.R.Civ.P. 68, it is respectfully submitted that *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015) is inapplicable to the instant action. *See Yu v. Hasaki Rest., Inc.*, 944 F.3d 395, 411 (2d Cir. 2019) (“Because] the FLSA does not require judicial approval of Rule 68(a) offers of judgment, we decline to extend Cheeks’ judicial approval requirement to that context.”); *see also Zang v. Daxi Sichuan, Inc.*, 2023 WL 2305934, at *8, fn.7 (E.D.N.Y. 2023) (“Though, the Cheeks reasonableness analysis does not apply here, of course, because it is a Rule 68 offer of judgment, and not a settlement agreement entered into by the parties.”) (quoting *Hasaki Rest., Inc.*, 944 F.3d at 411).

In light of the foregoing, it is respectfully submitted that the Court enter a final order, dismissing the instant action as against Defendants Little Scholars Childcare LLC and Kidz Town of Dutchess Corporation with prejudice.

We thank the Court for its attention to this matter, and are available at the Court’s convenience to answer any questions related to the foregoing.

Respectfully submitted,

¹ Plaintiff has independently decided to voluntarily dismiss her claims against the remaining non-appearing individual defendant, Sidiq Mohamed Alobeyee, without prejudice pursuant to Fed.R.Civ.P. 41(a)(1)(A)(i). Plaintiff can confirm that no consideration, or anything of value, was exchanged for the dismissal of Plaintiff’s claims as against this Individual Defendant.

LEVIN-EPSTEIN & ASSOCIATES, P.C.

By: /s/ Jason Mizrahi

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